

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

should be dismissed. These factual details are added to the Complaint in paragraphs seven, eight, and nine. See Exhibit 1 (First Amended Class Action Complaint).

The Federal Rules of Civil Procedure allow for liberal amendment of the pleadings. Rule 15(a) states that a party can amend its pleading “by leave of court . . . and leave shall be freely given when justice so requires.” Also Foman v. Davis, 371 U.S. 178, 182 (1962) (Rule 15(a) declares that leave to amend “shall be freely given when justice so requires; this mandate is to be heeded”). In McKinley v. Kaplan, 177 F.3d 1253 (11th Cir. 1999), the Eleventh Circuit laid out the standard courts should use to determine whether to grant leave to amend. The Court stated:

[i]n the absence of any apparent or declared reason – such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc. – the leave sought should, as the rules require, be “freely given.”

177 F.3d at 1258 (quoting Foman, 371 U.S. at 182).

In the present case the amendment is being timely sought as a result of the pleading deficiencies identified in the Report issued just last Wednesday. Ms. Rakestraw’s sole motivation is to correct those deficiencies as quickly as possible. There is no undue prejudice to Nationstar because it has long been aware of these facts that have now been added to the pleading.

## CONCLUSION

Because there is no improper motive on the part of Ms. Rakestraw, because there is no undue prejudice to Defendant, and because of the Federal Rules' liberal allowance for amendment, this Court should allow the attached First Amended Class Action Complaint.

Submitted this 3<sup>rd</sup> day of June, 2019.

BY: Wayne Charles, P.C.

s/Wayne Charles

Wayne Charles

Georgia State Bar No. 515244

WAYNE CHARLES, PC

395 Highgrove Dr.

Fayetteville, GA 30215

(770) 241-8936

(770) 460-0412 (fax)

Attorney for named Plaintiff and the  
Class

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1**

I hereby certify that I prepared the foregoing in Times New Roman, 14-point font, as approved by Local Rule 5.1.

s/Wayne Charles  
Wayne Charles

**CERTIFICATE OF SERVICE**

I hereby certify that on June 3, 2019, I presented the foregoing to the Clerk of Court for filing and uploading to the CM/ECF system, which will send a notice to the counsel of record listed below:

Jarrold S. Mendel  
McGuireWoods LLP  
1230 Peachtree Street, NE  
Promenade II, Suite 2100  
Atlanta, Georgia 30309-3534  
(404) 443-5713 (Telephone)  
(404) 443-5773 (Facsimile)  
jmendel@mcguirewoods.com

Attorney for Defendant Nationstar Mortgage, LLC

DATED this 3<sup>rd</sup> day of June, 2019.

s/Wayne Charles  
Wayne Charles